IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

OP.No. 18028 of 2000(U)

PETITIONER:

P.A.ABDUL RAHIMAN,
HEALTH INSPECTOR,
REGIONAL ENGINEERING COLLEGE,
THATHAMANGALAM, KOZHIKODE.

BY ADV. SRI.M.A.MANHU
& SRI.M.A.FAYAZ

RESPONDENTS:

THE BOARD OF GOVERNORS,
REGIONAL ENGINEERING COLLEGE,
CALICUT, REP. BY THE SECRETARY,
THE PRINCIPAL,
THE REGIONAL ENGINEERING COLLEGE,
CHATHAMANGALAM P.O.,
PIN - 673 601.

BY ADV. SRI.K.P.DANDAPANI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 26/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1: TRUE COPY OF THE PHOTOCOPY OF THE RESOLUTION OF THE BOARD OF GOVERNORS OF THE REGIONAL ENGINEERING COLLEGE, CALICUT.

EXT.P2: PHOTO COPY OF THE PROCEEDINGS DATED 26.2.94 ISSUED BY THE PRINCIPAL.

EXT.P3: PHOTO COPY OF PAGE 122 OF THE PAY COMMISSION REPORT OF THE YEAR 1988.

EXT.P4: PHOTO COPY OF THE PROCEEDINGS DATED 9.1.95 FIXING THE SCALE OF PAY OF THE PETITIONER AT RS.1760-3500 OF THE REGIONAL ENGINEERING COLLEGE, CALICUT.

EXT.P5: PHOTO COPY OF THE REPRESENTATION DATED 5.11.1995 SUBMITTED BY THE PETITIONER TO THE REGIONAL ENGINEERING COLLEGE.

EXT.P6: PHOTO COPY OF THE COMMUNICATION DATED 23.12.1996 ISSUED BY THE SECRETARY TO THE DIRECTOR OF TECHNICAL EDUCATION.

EXT.P7: PHOTO COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE PRINCIPAL AND SECRETARY OF THE BOARD OF MANAGEMENT OF THE REGIONAL ENGINEERING COLLEGE.

EXT.P8: PHOTO COPY OF THE MEMORANDUM DATED 12.8.1999 ISSUED BY THE PRINCIPAL, REGIONAL ENGINEERING COLLEGE, CALICUT.

EXT.P9: PHOTO COPY OF 1 & 78 PAGES OF THE PAY COMMISSION REPORT DATED 15.5.1998.

EXT.P10: PHOTO COPY OF THE MEMORANDUM DATED 29.3.2000 ISSUED BY THE REGISTRAR, REGIONAL ENGINEERING COLLEGE, CALICUT.

RESPONDENTS' EXHIBITS:

EXT.R1: TRUE COPY OF ORDER, G.O.(P)NO.225/83/HD DATED 18.8.1983.

EXT.R2: TRUE COPY OF RELEVANT EXTRACT OF MINUTES OF THE 19TH MEETING OF THE STANDING COMMITTEE (ADMINISTRATION AND FINANCE) OF THE RESPONDENT COLLEGE, DATED 19.1.1994.

EXT.R3: TRUE COPY OF RELEVANT EXTRACT OF BOARD RESOLUTION NO.30.46(II.6(E) DATED 31.12.1971, REFERRED TO IN THE COUNTER AFFIDAVIT.

EXT.R4: TRUE COPY ORDER, G.O.(P)NO.939/80/(270)/FIN. DATED 19.12.1980 OF THE GOVERNMENT OF KERALA.

EXT.R5: TRUE COPY OF LETTER NO.69015/PRC.A1/89/FIN. DATED 3.10.1989 OF THE COMMISSIONER AND SECRETARY (FINANCE), GOVERNMENT OF KERALA, ADDRESSED TO THE PETITIONER.

EXT.R6: TRUE COPY OF RELEVANT EXTRACT OF ORDER, G.O. (P)NO.480/89/FIN. DATED 1.11.1989 OF THE GOVERNMENT OF KERALA.

EXT.R7: TRUE COPY OF RELEVANT EXTRACT OF ORDER, G.O. (P)NO.930/93(2)/FIN. DATED 8.12.1993 OF THE GOVERNMENT OF KERALA, REFERRED TO IN THE ORIGINAL PETITION.

//true copy//

P.S. To Judge

SK/-

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.18028 of 2000

Dated this the 26th day of June, 2007.

JUDGMENT

The petitioner is the only Health Inspector in the service of the Regional Engineering College, Calicut which is renamed as '**National Institute of Technology**'. It is an autonomous body with the Board of Governors. It adopts Government Orders as they may require for the purpose of governing the field of administration.

2. The petitioner, being the only Health Inspector, is indisputably in an isolated post. Relying on Ext.P1 minutes, the petitioner took the stand that he is entitled to revision of scale of pay and higher grades in terms of G.O.(P)No.480/89 dated 1.11.1989. That request did not find favour with the Regional Engineering College, which turned it down, referring to paragraph 3 (2)(ix) of G.O.(P)No.930/93(2) dated 8.12.1993, which is produced as Ext.R7.

3. The stand taken by the Regional Engineering College is that the clause referred to above, in Ext.R7, provides that persons enjoying time bound grades in various posts in accordance with the pre-revised pattern will be given the specific grades of pay indicated in tables I and II as part of Paragraph 3 of Ext.R7 Government Order, and that the petitioner, who was in the revised

pay scale of Rs.950-1500 was entitled to 3rd time bound higher grade of Rs.1400-2300, on completion of 25 years of service and that such higher grade has been granted to the petitioner. There is, therefore, no legal flaw in applying the said clause in refuting the claim of the petitioner.

4. However, Ext.R4 Government Order, which also applies to the institution, in Clause 3 thereof, provides certain conditions for granting higher grades for posts which are mentioned therein. That Government Order shows that the posts for which there are no further promotions and posts which are isolated posts were given separate treatment inasmuch as in the case of isolated posts, which cannot be brought within the scheme of Ext.R4 or where, there would, therefore, be a resultant anomaly, the Heads of Departments could bring the facts to the notice of the Government for specific orders regarding the scale of pay to be allowed as higher grade, for the reason that the said Government Order does not relate to the scale in which the petitioner is or to his entry scale. The said Government Order may not, ipso facto, regulate the case of the petitioner, even if the Regional Engineering College has adopted that Government Order. But having regard to the fact that the petitioner entered the

service in 1966 and his entry is to an isolated post, which going by the materials on record, was thought of even being abolished at one point of time, it is appropriate that the Board of Governors of the Regional Engineering College (National Institute of Technology) considers any request of the petitioner to give him any further consolation, though he has already reached and is enjoying 3rd higher grade. Though the petitioner has stated that it was an unfortunate case of an isolated post, these are essentially part of incidents and accidents of service and it is not uncommon that such a situation arises.

5. In the above said circumstance, while finding no ground to interfere with the orders, this writ petition is disposed of directing that if the petitioner makes appropriate representation requesting the Board of Governors to consider extending to him any further relief, such a request would be considered. It is clarified that this judgment does not contain anything regarding the grant of any such relief. No costs.

Sd/-

(THOTTATHIL B.RADHAKRISHNAN)
JUDGE

sk/

//true copy//

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No. 18028 of 2000

JUDGMENT

26TH JUNE, 2007.